E 214 8. Lo. MH (1)

The oppressed mans importunate and mournfull cryes to be brought to the Barre of Iustice.

OR

An Epistle writ by Lievt. Col. *John Lilburne*, (without all shadow of Law and Iustice, imprisoned in the Tower of *London*.)

To all the moral honest English men, in and about the City of London, *whether Episcopall; Presbyterian, or those commonly called Sectaries of what kind soever*, John Lilburne *prisoner in the Tower of* London, *the 7. of April*, 1648. *sends hearty and respectfull salutations. In which he mournfully cryes out to all men that have any sense of pietie, honour, honesty, pittie, compassion, christian simpathy, humanity, or English fellow feeling, to pittie and compassionate his pining languishing, and worse then sudden dying estate and condition. And the first day of the next Terme being the 19 present, deliver his Petition hereunto annexed to the Iudges of the Kings Bench in* Westminster Hall, *for a Habeas Corpus to bring him before them to receive a legall tryall, either to his justification or condemnation, the severitie and strictnesse of the law being all the mercie and pittie he craves from all his adversaries, chusing and desiring any speedy death in the world rather then to be murdered or starved in prison, which is likely shortly to be his unavoidable portion, if much longer he be continued in his unjust captivitie. The second Edition, with an Addition reprinted the* 18. Aprill. 1648.

WOrthy Gentlemen, and fellow Country men, the Law of this Land is equally and alike our common birthright and inheritance (for all the distinguishing, deviding names amongst us,) unto which the meanest man in *England* is as much intituled and intaled unto, as the greatest Subiect, and the parting with the priviledges therof (to any whatsoever) and the stooping or submitting to any arbitrary or unlimitted government (in any whomsoever) was by this present Parliament in the day of their straits, adjudged a prophanesse like *Esaus, in selling their Birthright*, and subiecting them and their posterities to vassalage and slavery, for the preventing of which, they exhort all the true hearted patriots of *England*, to stick close unto them, who then as they declare, were ready to lay down their lives for the preservation of their lawes and liberties as the greatest earthly treasure and jewell that could here be possessed, 1. *part booklet. pag.* 660.

1648.

660. In the destruction of which we become beasts, and are no more men but in shap. 1. *part book dict. pag.* 140, 163. 201. And all liberty and property of *meum and tuum* is thereby totally levelled, destroyed, and confounded, for the avoiding and preventing of which, that much to be honoured Lawyer *Sir Edward Cook*, which deserves the highest praises from the plain and well minded people of *England*, of any Lawyer that ever lived therein, for that most inestimable pains of his, in compiling in English his *Foure parts of his Institutes*, which discovers so much of the peoples rights by law, that I am confident this present degenerated Parliament, and the present cowardly, corrupt, make-bate, lince-woolsie generation of Lawyers, wish every one of them burnt, though I heartily wish and desire that every man in *England*, that hath any spare money and time would buy them, and read, and study them, as the absolutest discoverers of the true mind of the Law of *England*, of all the Lawyers workes that yet are extant in *England*, in the 2. part of which, in his exposition of the 29. *chap. of Magna Charta*, fo. 51. he exhorts the Parliament it self. *That in stead of the ordinary and precious tryall by the law of the land, they bring not in absolute, and partiall tryalls by discretion, or Will or pleasure,* For saith he most excellently, fol. 56. ibim. *the law is the right line, whereby justice distributive is guided and directed, and therefore all the Commissions of Oyer and terminer, of Gaole deliverie, of the peace, &c. have this clause,* viz. *To doe what belongs (or appertains) to justice and law, and the custome of England. And that* (saith he) *which is called common right in the 2. Ed. 3. is called common Law in the 14. Ed. 3. &c. and in this sense it is taken, where it is said, that the thing or partie stands right in the court, that is to say, to the Law in the court.*

Secondly, *The law* (saith he) *is called right in opposition to wrong, or because it discovereth that which is tort, crooked, or wrong, for as right signifieth law, so tort, crooked, or wrong, signifieth injurie, for injurie is the contrary of right, and a right line measures it self and a crooked line, hereby the crooked cord of that which is called discretion, appeareth to be unlawfull, unlesse you take it as it ought to be,* viz. *discretion is to discern by the law what is just.*

Thirdly, *Law* (saith he) *is called right, because it is the best birth right the subject hath, for thereby his goods, lands, Wife, children, his body, life, honour, and estimation are protected from injurie and wrong, it being* (as he saith) *the surest sanctuarie that a man can take, and the strongest fortresse to protect the weakest of all, to every one of us there comes a greater inheritance by right, and the law, then by our parents.* See also fol. 63. 97. ibim. and the 4, 5, 6. pages of my after mentioned Plea for a Habeas Corpus.

And truly Gentlemen, I cannot but acquaint you, that almost for this elevn

ven yeares together, I have suffered abundance of lawlesse, bloody, wicked, cruell, barbarous, and tyrannicall (a) oppression, and never had legally to this houre any crime laid unto my charge, neither doth my conscience in reference to man accuse me of any, neither now I am confident can any be laid to my charge, unlesse it be for maintaining my self to be a man and not a beast, and standing for the lawes and liberties of my native Country, and keeping up as much as in me lyes, the right of propertie in *meum and tuum*, from being levelled and destroyed.

And yet even in the Tower of *London*, without all shadow or cullour of law, and iustice, is my bodie unjustly detained in prison, by the Lievtenant thereof, by the power of armed men. who continually rob me of the priviledge of an English man, in debarring my friends from having free accesse to me, so that being in a manner destroyed in outward things by reason of my long sufferings and large expences to preserve my self from utter ruin by my great and potent enemies, and having my own to the value of almost 3000.l. kept from me by the powerfull influence of the present Earle of *Salisbury*, old Sir *Henry Vaine*, my cruell Star Chamber Iudges, Mr. *William Lenthall* Speaker, my heavie adversarie, that hath maliciously and unjustly tost and tumbled me from Gaole to Gaole, and Mr. *Oliver Cromwell*, that usurper and murderer, who by his tyranny and usurped armed power, doth so over awe the major part of the Parliament, that they neither can, nor dare doe any man justice and right that he hates, being at present fit for nothing so much as to weare blew lackets with *Cromwells* badges upon their armes, as his vassells and slaves.

And having never had to this day any allowance at all (as by law I ought to (b) have) from those that uninstly committed me, in the eye of reason I must of necessitie without your compassionate and resolved help speedily perish in a hole and a corner, which to doe in a fearefull and amazed silence, I had rather chuse to be cut in ten thousand pieces, or perish by the severest hand of iustice, neither indeed can I sit still or *acquiese*, in the deniall of justice or deliverance unto me, till I see it, that the use of any more meanes is in vaine, no more then I can cease to eate my meat, or weare my cloths to keep me warme. For as Christ saith

(a) *These are the words and Epithits of the Parliaments Votes of the 4. May 1641. in reference to my Star Chamber sufferings, see innocencie and truth justified; pag. 65, 72. and my relation before the Lords of the 13. Feb. 1645. pag. 11. wher their votes are printed.*

(b) *As I fully proved in my speech of the 19 Ian. 1647. at the house of Commons barre, which you may read in my whip for the Lords. p. 21, 22.*

ſaith, Mat. 11. 17. *I have mourned unto them* (that would cauſleſly deſtroy me) *and they will not lament, and I have piped unto them, and yet they will not dance*, and what to do the next but what now I doe, I know not, ſecret things belonging unto God, but revealed things to me, and the generation in which I live, and therefore as a rationall creature (which is the image of God in which he created man) I act by thoſe dictates, God dictates unto me as ſuch a creature, the dictates of which are, that it is as lawfull for me by the light of nature and the law of God (which hath commanded me to do no murder, and if not upon another, then much leſſe upon my ſelfe, and a murderer I am if I patiently and ſottiſhly ſuffer another to murder me, without uſing all meanes whatſoever for my own preſervation, and therfore I iudge it as lawful for me) by all meanes poſſible to preſerve my life from beaſtlike, Bariſh & wolviſh men, as from the deſtruction of ſavage beaſts, bares, and wolves themſelves, which for my preſident in my judgement was continually practiſed by *Paul* himſelf, who in his ſtraits made uſe of meanes for his own preſervation in as high a nature as I have ever done, yea, and ſet his Iudges together by the eares. Acts 24. And for my part, I iudge the ſecond table as much the law of God as the firſt table, and as wel worth my laying down my life for the preſervation of it as the firſt, knowing amongſt men no religion worth owning, commending or imbracing, but that which teacheth a man to live juſtly, honeſtly, and uprightly amongſt the ſons of men, and to do to all men as I would be done unto, and if I would have another to doe good unto me, much more am I bound to doe it unto my ſelf, and therefore for thoſe men that place all their religion in prating and talking of religion, I pray God keep me from their airie and *Kemero* religion, and continue me one of the practiſers of the actions of religion, it being Chriſts rule, *to know the tree by its fruit*, and James, *to iudge of the faith by the workes*. And as for thoſe men, that care for no more but to get liberty to meet freely together, to prate and diſcourſe of religion, and will let others without any cauſe, periſh, rot, and be deſtroyed in priſon, without uſing any meanes for their deliverance or preſervation, I thinke may iuſtly be numbred amongſt the Goats which Chriſt ſets upon his left hand, and commands to *depart ye curſed into everlaſting fire, prepared for the Divell and his Angells*, Mat. 25. 32, 33. to the end, whoſe condemnation was not for committing evill, but for not doing good to thoſe that were in priſon, or nakedneſſe, &c. And if it be the Apoſtles rule, *that he that will not worke ſhall not eate*, then he deſerves without doubt to ſtarve, that will willingly ſuffer another to tye his hands, and ſo keep him from working, and ſit down in patient ſilence without the uſe of all meanes to git his hands untied, that ſo he may goe to work again to earn his bread again.

And

And if he be worſe then an infidell, as the Apoſtle avers, *that doth not provide for his own familie*, then ſurely he is the ſame, if not worſe, if worſe can be, that ſuffers any man by will and pleaſure, to take by force and violence, without his conſent, that away from him that he hath provided for his familie, and ſits down in ſilence and patience without uſing all poſſible meanes to get it againe, eſpecially if it be his trade, or his libertie, which while by impriſonment it is reſtrained, he cannot follow his trade, upon which the life and being of his familie depends, all which in every particular is my caſe, and therefore I both muſt and will ſtirre for my liberty and my right, without the ſpeedy inioyment of which, I and my familie unavoidably periſh, therefore in my own thoughts woe be unto me if I doe ſit ſtill. and yet in my actings I judge it my duty and wiſedome to goe gradually to worke, in the moſt iuſteſt wayes that is ſutable to chriſtianitie and humanitie, and more then I have already done in a formall, magiſteriall way. I cannot ſee I have to doe, ſaving the flying to the ordinary Judges in *Weſtminſter Hall* for juſtice according to the Lawes of England, and if there I get it not, then I muſt of neceſſitie appeale to the body of the people, though it may be it may not help me, yet I muſt in duty and conſcience doe it, (and iuſtifie it by the Parliaments doing it * themſelves) though all their eares ſhould be deafe to my cryes and lamentations, and if I periſh I periſh. but yet I know my portion is with the Lord of glory in heaven, where to goe is for me beſt of all, yet I muſt worke, and all my potent adverſaries ſhall not let me: till I have fully finiſhed my courſe, appointed in the ſecret decree of my father In order to which it was, that I lately pend and printed my Epiſtle to the Speaker, dated the 4. *April*, 1648. called *the priſoners plea for a Habeas Corpus*, in the 7, and 8, pages of which, I have partly expreſſed my deſires to you, as there you may read, and alſo there printed a petition, which I there do, and ſtill ſhall earneſtly intreat all thoſe amongſt you (in the Parliaments words) that have any ſence of pietie, honour, honeſty, pittie, compaſſion, chriſtian ſimpethy, humanitie, or Engliſh fellow feeling within your breaſts, to goe up in perſon the firſt day of the next Tearme. by ſix or ſeaven a clock in the morning, with that my petition, to the Iudges ſitting on the Kings Bench in *Weſtminſter hall*, being Wedneſday the 19 of this preſent *April*, About which petition I further earneſtly deſire to propound theſe enſuing things to your ſerious conſideration.

* 1 book pag. 197. 255. 278. 496. 636. 666. 700.

1. That upon the next Lords day, and the Lords day after, being the 9. and 16. of this preſent *April*, that you improve vigorouſly, your ſeverall intereſts to make the petition, &c. as publique as poſſible you can, either by getting it publiquely read, with the preamble, before it, or elſe neere or at the meeting

places

places, naile up the plea it ſelfe, ſo that the Petition and preamble to it may be read.

2. Appoint frequent meetings in your ſeverall ſtations, that ſo you may underſtand one anothers minds about it, and make your number as conſiderable as poſſible you can, for it concernes all your lives, liberties and eſtates, as well as mine, for ſuffer your ſelves to be robbed of the law, or to be murdered in priſon, without due tryall or legall conviction, as without your ſpeedy help I am like to be, and I will not give 6 d for all your eſtates.

3. I earneſtly intreat you at your firſt meeting amongſt any of you, to reſolve to ſend ſome of you to me, that ſo I may deliver unto you the Originall of my petition under my own hand, and acquaint you who I have alreadie fixed upon to ſpeak to it when it is delivered in open Court, and ſee whether you approve of the parties or no, for abilities and reſolution, and alſo that I may deliver three or foure copies of my plea for a *Habeas Corpus*, corrected with my own hand (for the printer hath made divers erratas) with a deſire unto you, with ſo many of you as your ſelves ſhall thinke fit, to carrie one of them to Mr. Iuſtice *Bacon*, and another to Mr. Iuſtice *Rowles*, the Iudges of the Kings bench: and deſire them to read it, and conſider ſeriouſly of it againſt the Tearme, that ſo they may be fitted with courage and reſolution enough not to break their oathe, but to doe me iuſtice and right, according to the good, old, and iuſt law of the land, whoſoever ſhall command them to the contrary. And I alſo ſhall further intreat you to carrie a third copie to *Mr. Speaker*, and deliver it to his own hands at his houſe, or elſe where, with your earneſt deſire to him, that he will diſcharge his duty in acquainting the houſe with my juſt and legall deſires therein contained, that ſo they nor none of them may run upon the rocks (but at their perills) by commanding the Iudges to forſweare themſelves, in not granting me a *Habeas Corpus* to bring or command my body and cauſe before them in open court, which is my right by law, As I have largely and fully proved in the foreſaid plea, which command I ſhall look upon (if any ſuch ſhall be) to be as traiterous a ſubvertion of the fundamentall lawes and government of England, as in the firſt Article of their impeachment they charge the Earle of *Strafford* with who loſt his head as a Traytor therefore, as by his bill of Attainder you may read, printed in the 29. pag. of my late book, called the *Peeples Prerogative*, for I find by the notes of ſome preſent at the Earle of *Straffords* Arraignment, that the principall witneſſes againſt the Earles firſt article, was Mr. *Muſgrave* (who witneſſed to this effect, that the ſaid Earle made his will and pleaſure Lord paramount above the law of England about prohibitions, and was angry with Iudge *Hutton* for granting them, (as Mr. *Thorp* witneſſed he had heard the Iudge ſay) and in the hearing of Mr. Io. *Muſgrave* (late priſoner in the Fleet) did about the year 1632. Threaten to clap cloſe by the heels all them that brought them into the Court to plead them before him, though they were & ſtill are part of the antient and iuſt law of England, upon whoſe crime for the endeavouring to ſubvert the law, and introduce an arbitrarie tyrannicall government of will and pleaſure. *Mr. Iohn Pim* in his firſt ſpeech againſt the Earle upon Tueſday the 23. *March*, 1640. and the ſecond day of his tryall, had theſe words, *viz.* that the Earle of *Straffords* crime was a treaſon far beyond the reach of words, and that no puniſhment could be thought upon ſufficient to expiate crimes of ſuch a tranſcendent nature.

And Mr. *Glyn* upon Wedneſday the third day of the triall told the Lords at the bar. that the Lord of *Strafford* was impeached not with ſimple, but accumulitive Treaſon, in the maſſe of which taken in one view, he (the ſaid Earl) ſhould be undoubtedly found the moſt wicked and exorbitant Traytor that ever was arraigned at the Lords bar, and I am ſure to ſtop habeas Corpeſſes is as great a Crime in law as to ſtop prohebitions; but if you ſhould aske me the queſtion whether I did not ſend my Plea to the Speaker in writing before I printed it,

I answer no, and the reason was, because if I had so done it is possible my adversaries might have prevented the printing, and publishing of it, neither have I yet sent him one in print, and the reasons of that are,

First, because if I should have sent it by a single friend it is possible he might have bin clapt by the heeles, or have come to some other trouble about it, or if he had not, yet he would not well have dared to have closly followed the Speaker for answer to it, which I much desire, & must strongly endeavour for.

And Secondly, to send it by my Wife is to no purpose at all but to throw it away as wast paper.

First, because that about *September* 1646. as she was following a *Petition* for me (being then with Child) at the House of Commons doore, she had like to have been murdered (without any offence in the world given) by one *Richard Vaughin* a gold smith in Foster laine, and then Ensigne to that dayes guard. at which the members of the House were no whit offended, but rather rejoyced at it, the story of which you may reade in the 32, 33. pages of my book called *Londons liberties in Chains*.

Secondly, because that by Col. *Baxster* and his Soldiers, she had like to have bin run through with their swords, for doing that which nature and humanity teacheth her to stick close to her husband in his adversity and affliction, the 19. of Jan. 1647. being that very day, that I my selfe had like to have been murdered by them for no other Crime, but for standing for my legall liberties, given me by the law my Country, as you may read in the relation thereof 24, 25, 26. pages of my Whip, in which regard, especially being great with child, she dare goe no more to the House of Commons to follow my businesse there, least for so doing she be murdered in good earnest, but besides if she durst goe again. yet,

Thirdly, I being so much at enmity with *Baxster* his under Officers and Soldiers as I am (who are on purpose (against all law and justice) set as a guard to keep the people of England from having free accesse to the House of Commons to seek for justice from them which is such a practise that all Pagan Judges in the world may justly blush at) they will be sure to deny my Wife any accesse at all, and therefore have I judged it altogether in vaine to send her any more to follow my businesse there, for me, And therefore in this Strait I must a little rest upon some of you.

And therefore in the first place, seeing by law that the Parliament it self hath often declared; though your number be never so great that goes up, there is no danger in law unto you carrying your selves (as in the least I doubt not but you will) quietly and peacably. First part book Decl. page 201, 202, 209, 548, 691. 720. so on the contrary, misbehaviour in *Westminster* Hall the Court sitting is very dangerous by the Common Law, as Sir *Edward Cook* declares in the 2. part institutes. fol. 549. & 3. part institutes chap. 103. fol. 218, *viz.* to strick, is the lose of the right hand, &c.

Therefore

Therefore to wind up all I most humbly intreat you speedily to publish this in print amongst you to some purpose, that so by the knowledge hereof, your company may be the more considerable, and all of them the better know, how without detriment to themselves, or me, to behave themselves when they go out up, the effectuall publishing of which, with the petition to it if you please. I shall take for a very great Obligation, and Tye to remain.

From my most illegall restraint and imprisonment in the armed garison of the Tower of London *this 7. of* April 1648.

Your faithfull and ingaged Country-man to serve you in the reall service of his Country, zealously and Courageously to the last drop of his heart blood.
John Lilburne.

The Petition thus followeth.

To the honourable the Judges of the Kings bench, The humble Petition of Lievt. Col. *John Lilburne* Prisoner in the Tower of *London*,

Sheweth,

THat your Petitioner is an Englishman and thereby intailed and intituled to the benefit of all the lawes of England which by your Oaths (†) you *are sworne indifferently and equally without feare or partiallity to administer gratis to all persons rich and poore, without* having regard *to any person notwithstanding any command whatsoever to the contrary.*

Now forasmuch as a Habeas Corpus is part of the law of England, and ought not by law to be denyed to any man (*) whatsoever that demand it, which though your petitioner earnestly endeavoured the last Tearme to obtaine, yet could not prevaile with his Counsell to move for it, although he hath almost this two yeares been detained in prison in the Tower of London, without all shadow of Law or Iustice, and by the Lievtenant thereof, hath been divorced from the societie of his wife, debarred from the free accesse of his friends, deprived of the use of pen, inke and paper: all which usages are against the expresse lawes and Statutes of this land, your petitioners birth right and inheritance.*

Therefore your petitioner humbly prayeth, according to his right, and your oaths, the benefit of a Habeas Corpus, (*and that he may have it gratis* † *according to the law of the land and your Oaths*) to bring his body and cause before you in open Court, there to receive your award and iudgement according to the declared Law of England.

John Lilburne. *And your Petitioner shall pray, &c.*

Dear *Country-men*; Since I write this Letter to you I fully understand my *Cromwellish Adversaries* have a Designe speedily to send me Prisoner to a *Castle* many Myles remote from *London*: Where I cannot but beleive they intend absolutely to murder me in good earnest: And therefore, in the bitternesse of my soule, and the anguish of my spirit, I mournfully implore the effectuall presence, of as many of you as possible can be at *Westminster Hall* to morrow morning by six or seven a clock without Staffe or Sword, to deliver my Petition for mee, and I shall rest,

Tower, this 18. April, 1648.

Yours in so doing much obliedged,
John Lilburne.

† Which is printed in Pultons collect. of Statutes fol. 144. and the peoples prerogative. p. 10.

See 2. *H.* 5. ch. 2. Petition of right, 3. *C. R.* & the act that aboliseth ship money, 17. *C. R.* 2. partin. fo. 53. 55. 189. 615. 616. 4. part f. 71. * 2. part inst. f. 50. 63. 97. 526.

† See the 26. of *Magna Charta*, and Sir *Ed. Cookes* expolition upon it. fol. 42. & 3. Ed. 1. ch. 26. and the expolition upon it in 2. par. in. f. 210. & f. 74. 533. 535. and the stat. of the 11. *H.* 4. N° 28. not printed in the Stat. book, but is printed in the 3. part inst. fol. 146, 224, 225.

373884